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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 150406346-5700-02]

RIN 0648-BF03

International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Fishing Effort Limits in Purse Seine Fisheries for 2015

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This rule makes final an interim rule that established a fishing effort limit for calendar year 2015 for U.S. purse seine vessels in the U.S. exclusive economic zone (EEZ) and on the high seas between the latitudes of 20° N. and 20° S. in the area of application of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention Area). The limit is 1,828 fishing days. This action is necessary for the United States to implement provisions of a conservation and management measure (CMM) adopted by the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC or Commission) and to satisfy the obligations of the United States under the

Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention), to which it is a Contracting Party.

DATES: This rule is effective on [*Insert date of publication in the FEDERAL REGISTER*].

ADDRESSES: Copies of supporting documents prepared for this final rule, including the regulatory impact review (RIR) and the environmental assessment (EA) and supplemental EA prepared for the National Environmental Policy Act (NEPA) purposes, as well as the interim rule, are available via the Federal e-rulemaking Portal, at www.regulations.gov (search for Docket ID NOAA-NMFS-2015-0058). Those documents are also available from NMFS at the following address: Michael Tosatto, Regional Administrator, NMFS, Pacific Islands Regional Office (PIRO), 1845 Wasp Blvd., Building 176, Honolulu, HI 96818.

FOR FURTHER INFORMATION CONTACT: Emily Crigler, NMFS PIRO, 808-725-5036.

SUPPLEMENTARY INFORMATION:

On May 21, 2015, NMFS published an interim rule in the **Federal Register** (80 FR 29220) to establish a limit on fishing effort by U.S. purse seine vessels in the U.S. EEZ and on the high seas between the latitudes of 20° N. and 20° S. in the Convention Area for the calendar year 2015. This area is known in U.S. fishing regulations as the Effort Limit Area for Purse Seine, or ELAPS. The limit established in the interim rule is 1,828 fishing days. The interim rule was open for public comment until June 5, 2015.

The 2015 purse seine fishing effort limit for the ELAPS was formulated as in previous rules to establish limits for the ELAPS: the applicable limit for the U.S. EEZ portion of the ELAPS, 558 fishing days per year, is combined with the applicable limit for the high seas portion of the ELAPS, 1,270 fishing days per year, resulting in a combined limit of 1,828 fishing days in the ELAPS for calendar year 2015.

As established in existing regulations for purse seine fishing effort limits in the ELAPS, NMFS monitors the number of fishing days spent in the ELAPS using data submitted in logbooks and other available information. On June 8, 2015, NMFS issued a temporary rule in the **Federal Register** announcing that the purse seine fishery in the ELAPS would close as a result of reaching the limit of 1,828 fishing days (80 FR 32313). The closure took effect June 15, 2015, and will remain in effect through December 31, 2015.

This final rule is issued under the authority of the WCPFC Implementation Act (16 U.S.C. 6901 *et seq.*), which authorizes the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the Department in which the United States Coast Guard is operating (currently the Department of Homeland Security), to promulgate such regulations as may be necessary to carry out the obligations of the United States under the Convention, including the decisions of the Commission. The authority to promulgate regulations has been delegated to NMFS. The preamble to the interim rule provides background information on a number of matters, including the Convention and the Commission, the provisions of the WCPFC decisions being implemented in this rule, and the bases for the proposed regulations, which are not repeated here.

The Action

This final rule makes final the interim rule that established the limit of 1,828 fishing days for the calendar year 2015.

Comments and Responses

NMFS received two sets of comments on the interim rule. The comments are summarized below, followed by responses from NMFS.

Comment 1: Our oceans are seriously overfished and are on the verge of collapse due to

warming, acidification, toxins, and plastics, etc. Limits need to be placed upon fisheries.

Economic gain of the fisheries has got to be curtailed now to save all ocean life.

Response: NMFS acknowledges the comment.

Comment 2: Due to the fact that U.S. purse seine fleet located in Pago Pago, American Samoa, is already under duress because of low fish prices and high access fees for fishing in the waters of the Parties to the Nauru Agreement (PNA), closing the U.S. EEZ and high seas to U.S. purse seine fishing will only add to the demise of the U.S. fleet in American Samoa.

Response: NMFS acknowledges the concerns expressed by the commenter. However, this final rule establishes limits adopted by the Commission in Conservation and Management Measure (CMM) 2014-01. We believe that taking this action to implement the 1,828 day limit in the ELAPs is necessary to satisfy the obligations of the United States under the Convention and CMM 2014-01.

No changes from the interim rule have been made in this final rule.

Petition for Rulemaking

On May 12, 2015, as the interim rule was being finalized for publication, NMFS received a petition for rulemaking from Tri Marine Management Company, LLC (Tri Marine). The company requested, first, that NOAA undertake an emergency rulemaking to implement the 2015 limit on fishing effort by U.S. purse seine vessels on the high seas and in the U.S. exclusive economic zone in the Convention Area, and second, that NOAA issue a rule exempting from that limit any U.S. purse seine vessel that, pursuant to contract or declaration of intent, delivers or will deliver at least half its catch to tuna processing facilities in American Samoa. This final rule addresses the first part of the petition by implementing the 2015 limit on fishing effort for U.S. purse seiners on the high seas and in the U.S. EEZ. On July 17, 2015, NMFS published a notice

of receipt of, and request for comment on, the Tri Marine petition (80 FR 42464). Any action taken by NMFS in response to the second petitioned action will be taken separately from the rulemaking in this document, after consideration of public comment on the notice of receipt of the petition.

Fishing Restrictions during Closure Periods

The regulations at 50 CFR 300.223 implementing the ELAPS closure prohibit U.S. purse seine vessels from conducting bunkering operations in the ELAPS during the closure period, since bunkering is included in the definition of fishing (see 50 CFR 300.211). During the ELAPS closure, the U.S. purse seine fleet generally continues to be allowed to fish under the South Pacific Tuna Treaty in some foreign EEZs; however, the vessels are not necessarily authorized by those nations to conduct bunkering activities in their waters. Consequently, they are effectively forced to conduct bunkering operations in foreign waters or ports, which can result in substantial costs to fishing businesses. In a separate, but related rulemaking (RIN 0648-BF23), which is being published elsewhere in this issue of the Federal Register, NMFS is removing, through an interim rule, the restrictions on bunkering operations, if otherwise authorized by applicable laws and regulations, in the ELAPS during the closure period.

Classification

The Administrator, Pacific Islands Region, NMFS, has determined that this final rule is consistent with the WCPFC Implementation Act and other applicable laws.

Administrative Procedure Act

NMFS may waive the 30-day delay in effectiveness required under the Administrative Procedure Act, 5 U.S.C. 553(d), upon a finding of good cause that the delay is impracticable, unnecessary, or contrary to the public interest. NMFS finds that it would be contrary to the

public interest to delay the effective date of this final rule. The requirements have been in effect through the interim rule since May 21, 2015, and the ELAPS has been closed to fishing by U.S. purse seiners since June 15, 2015. If this final rule does not enter into effect immediately, there could be public confusion as to whether the ELAPS is reopened to fishing until the rule enters into effect. Thus, this final rule is effective upon publication in the **Federal Register** so there is no perceived regulatory gap in the implementation of the fishing effort limit in the ELAPS for 2015.

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866.

Regulatory Flexibility Act

Because prior notice and opportunity for public comment were not required for the interim rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable. Therefore, no final regulatory flexibility analysis was required and none has been prepared.

List of Subjects in 50 CFR Part 300

Administrative practice and procedure, Fish, Fisheries, Fishing, Marine resources, Reporting and recordkeeping requirements, Treaties.

Authority: 16 U.S.C. 6901 *et seq.*

Dated: August 19, 2015.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart O—Western and Central Pacific Fisheries for Highly Migratory Species

Accordingly, the interim rule revising § 300.223, paragraph (a)(1), which was published at 80 FR 29220 on May 21, 2015, is adopted as a final rule without change.

[FR Doc. 2015-20957 Filed: 8/24/2015 08:45 am; Publication Date: 8/25/2015]